

BEFORE THE
CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

In the Matter of:

FREIDA GATLIN
(Claimant)

PRECEDENT
BENEFIT DECISION
No. P-B-96
Case No. 70-2008

S.S.A. No.

STRONG COBB ARNER OF CALIF., INC.
(Employer)

Employer Account No. ---

The claimant appealed from Referee's Decision No. BN-10188 which disqualified her for unemployment insurance benefits under section 1256 of the Unemployment Insurance Code and which relieved the employer's reserve account of benefit charges under section 1032 of the code, on the ground that the claimant voluntarily left her most recent work without good cause. The referee also held it was unnecessary to consider the issue under section 1264 of the code.

STATEMENT OF FACTS

The claimant was last employed as a production worker by the above employer for approximately five years at a terminal wage of \$2.49 per hour.

The claimant had been granted a medical leave of absence and in August she was granted an extension of this leave. During the period of her leave the claimant moved into the home of her parents in Fontana, California to care for her mother who was suffering from a terminal illness. When her mother passed away the claimant and her husband moved into her father's home in Fontana. The claimant's father is 80 years of age. He has a small shop of his own where he works

at his own leisure. He has been hospitalized with a bad heart attack and is under medication for a fluid problem. The claimant believed that he should not live alone and she felt obligated to assist him by performing regular domestic duties, such as caring for the house, preparing food, doing the laundry, etc. There was no one else available to take care of her father.

In mid-October 1969 the claimant returned to work for the employer in Sun Valley, driving approximately 65 miles each way. She continued working until January 16, 1970 when she voluntarily left because of the distance involved in driving to and from her employment. The claimant's husband was employed at the time the claimant left work and at the time she filed her claim for benefits. He was receiving an hourly wage of \$3.

REASONS FOR DECISION

Section 1256 of the Unemployment Insurance Code provides for the disqualification of a claimant and sections 1030 and 1032 of the code provide that an employer's reserve account may be relieved of benefit charges if it is found that the claimant voluntarily left her most recent work without good cause.

In applying the provisions of this section of the code we must ascertain the real, not the ostensible, reason for the claimant's unemployment because section 100 of the code provides that unemployment benefits are to be paid to those individuals who are unemployed through no fault of their own.

While the ostensible reason for the claimant's leaving employment was the great distance she had to travel each day to and from work, the underlying cause of this extended commute resulted from the claimant's decision to move into the residence of her father. Therefore, we conclude that the real reason the claimant left employment was because she changed her residence.

Having so concluded, it is necessary to decide if her reasons for moving were of a compelling nature. Her father is 80 years of age and not in the best of

health. He had been recently widowed and he needed someone to perform the domestic duties that a wife ordinarily performs. Since there was no one else available, the claimant felt obligated to take care of her father. Accordingly, we conclude that the reasons for the claimant moving into her father's residence were of such a compelling nature as to constitute good cause.

Since the claimant moved into her father's residence to domestically assist him, her eligibility for benefits must be decided under section 1264 of the code. That section provides that if an individual's domestic duties cause her to resign from her employment, she shall not be eligible for benefits for the duration of the ensuing period of unemployment unless she was, both at the time of leaving and at the time of filing the claim for benefits, the sole or major support of the family.

Section 1264-1(b) of Title 22, California Administrative Code, defines "domestic duties" as those duties which relate to the health, care of welfare of the family or household or other duties reasonably required for the comfort or convenience of the household.

Since the claimant moved into her father's residence to perform these domestic duties for him, and, since she was not the sole or major support of the family (consisting of herself, her husband and her father), both at the time of leaving work and at the time of filing the claim for benefits, she is ineligible for benefits for the ensuing period of unemployment.

While we recognize that the claimant did not leave her work immediately upon moving, but did actually continue work for some three months after moving, we do not believe that this short lapse of time mitigates against our finding that the claimant's domestic duties were the real reasons which caused her to resign from her employment.

DECISION

The decision of the referee is modified. The claimant is not subject to disqualification under section 1256 of the code and the employer's reserve account is not relieved of benefit charges under section 1032 of the code. However, benefits are denied under section 1264 of the code.

Sacramento, California, January 19, 1971.

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

ROBERT W. SIGG, Chairman

LOWELL NELSON

CLAUDE MINARD

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